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IN THE

Circuit Court of the United States

FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

MAY TERM, A. D. 1859.

ABRAHAM D. BEDILION and HARRIET, his wife,

VERSUS

JOHN T. M'GOWAN, and others.

IN EQUITY.

COPY OF BILL AND COMPLAINANTS' DEPOSITIONS.

C. SHALER & CO.

SOLICITORS FOR COMPLAINANTS.

PITTSBURGH:

PRINTED BY W. S. HAVEN, CORNER OF MARKET AND SECOND STREETS.

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COPY OF BILL.

ABRAHAM D. BEDILION and HARRIET A. BEDILION, his wife,
citizens and residents of the State of Virginia,

versus

JOHN T. M'GOWAN and MARGARET, his wife, THOS. SEATON and
ROBERT SEATON, citizens and residents of the State of
Pennsylvania, within the Western District.

In the Circuit Court of the United States for the Western District of Pennsylvania.

IN EQUITY.

*To the Honorable Judges of the Circuit Court of the United States
for the Western District of Pennsylvania :*

The Bill of Complaint in Equity of Abraham D. Bedilion and
Harriet, his wife, citizens and residents of the State of
ginia, Represents—

I. That on or about the twentieth day of July, A. D. 1831,
Thomas Seaton, of Ligonier, Westmoreland county, Pennsyl-
vania, the father of your complainant, Harriet, died seized and
possessed of a large real and personal estate of great value,
situated in the said county and state, and the real estate being
particularly specified in the schedule marked "A" and filed as
an exhibit, and made part of this bill.

II. That the said Thomas Seaton died unmarried, but he
left your complainant as his acknowledged natural child,
having for several years acknowledged, supported and provided
for her as his offspring, and she residing with him at the time
of his death, and being at the time about eight years of age.
The said Harriet was born in 1823, and when about two
years of age was taken to his house by the said Thomas,

and publicly acknowledged as his daughter; was treated by him and introduced to his relations, friends and guests as his own child and future heiress.

III. That shortly before his death the said Thomas Seaton, in order to provide for said acknowledged offspring, and to devise and bequeath to her his real and personal estate, went to the town of Greensburg, and applied to his friends John T. Barclay and Matthew Jack, to write his will, devising and bequeathing his real and personal estate to the said Harriet, and they met together for that purpose; but before the will could be prepared and executed, the illness of the said Thomas increased, so that he was compelled to return home, leaving instructions with the said Barclay and Jack to write the will as above stated, making the said Harriet his *sole* heir, and bring to him for execution in the course of the ensuing week. After his return the illness of the said Thomas increased, and he within a few days thereafter died. From the time of his return home, until his death, the principal topic of his conversation was his intended will and disposition of his estate in favor of the said Harriet, and expressing his anxiety for the arrival of his aforesaid friends Barclay and Jack, in order that the will might be duly executed, and fearing that he might not live until their arrival, he desired that they might be sent for, so that the will might be executed before his death.

IV. But your complainant further represents, that the said Thomas Seaton had two brothers, James Seaton and John Seaton, who, in case the said Thomas Seaton died intestate, would be his heirs-at-law and inherit his property. That they well know that the said Harriet was acknowledged by the said Thomas as his child, and that he desired and intended to make her his heir, and by his will to devise and bequeath to her his real and personal estate. That the said John and James seeing and well knowing the dangerous illness of said Thomas and his desire to make a will devising his property to the said Harriet, fraudulently and wrongfully combined and confederated together, contriving and intending to hinder, delay and prevent the said Thomas from making a will as he intended, willfully and fraudulently represented to the said Thomas that that there was no occasion for his anxiety about the arrival of

the said Barclay and Jack to prepare his will—that his illness was not dangerous at all, and that the said Barclay and Jack would be there in season to write his will as he desired; and by such wrongful, willful and fraudulent misrepresentations they deceived the said Thomas as to his dangerous condition, soothed his anxiety, and hindered and prevented him from sending for said Barclay and Jack, or procuring some other person to write his will in favor of said Harriet, as he desired and intended. And on the day preceding the one on which said Thomas died, he lying on his bed in great illness, holding his brother James by one hand and the said Harriet by the other, the said James, at the request of the said Thomas, and in the presence of other friends standing around, and with the knowledge, assent and concurrence of the said John, who was then and there present, solemnly promised that the said Harriet should have the entire property and possession of the said Thomas after his debts were honorably discharged. And in order to prevent said Thomas from making his will in writing, or in due form of law, in favor of the said Harriet, the said James then and there in substance said to him, “Brother Tom, make your mind easy—give yourself no trouble about that—she (meaning the said Harriet) shall have it all—every cent of it—we want none of it;” and at the same time the said John Seaton, being present, walked forward to the bed of Thomas, and assented to the promise and declaration so made by the said James. And that the said Thomas, confiding in the promises and declarations so made by the said James and John, was thereby induced not to make his said will in favor of said Harriet, though before his death he was so much better as to be able to do so; but on the following day the disease progressing, he died before the arrival of said Barclay and Jack, who came to write his will.

V. That the said James and John having thus wrongfully and fraudulently hindered and prevented the said Thomas from making a will and giving his real and personal estate to the said Harriet, as he wished and desired to do, they as his heirs-at-law, claimed and held the same from the time of his death until the 22d day of July, 1831, when the said John and James made and executed a writing, in substance as follows:

AGREEMENT. }
 JOHN and JAMES SEATON }
 with HARRIET SEATON. }
 Whereas Thomas Seaton is deceased intestate, (as is believed,) we, James Seaton and John Seaton, heirs-at-law of Thomas Seaton, believing that it was his intention to leave his estate, or a part thereof, to Harriet, his natural daughter, and in consideration of the sum of one dollar, lawful money of the United States, to us in hand paid by the said Harriet, and in consideration also of the premises, have, and do hereby give, grant, bargain and sell, remise, release and forever quit claim to the said Harriet, and to her heirs and assigns, the one equal and undivided third part of the real and personal estate of the said Thomas Seaton, deceased, whereof he was seized or possessed in fee, or otherwise, at the time of his decease; and we bind ourselves, our heirs and assigns, to warrant and defend the same to the said Harriet, her heirs and assigns forever, against ourselves and our heirs respectively.

In testimony whereof, we hereto set our hands and seals, the 22d day of July, 1831.

JAMES SEATON. [L. s.]

JOHN SEATON. [L. s.]

Sealed and delivered in presence of—the words “have” and “give” interlined before signing.

JOHN T. BARCLAY,
 SAMUEL KELTZ.

WESTMORELAND COUNTY, ss.

J. T. BARCLAY, *sworn* — Declares that he was present at the execution of the foregoing indenture, and saw John Seaton and James Seaton execute the same. Said parties acknowledged to be their hands and seals, act and deed, respectively, in presence of this deponent and Samuel Keltz, and this deponent subscribed his name as a witness thereto. Deponent also saw Samuel Keltz subscribe his name as a witness.

J. T. BARCLAY.

Sworn and subscribed, the 22d day of August, 1831, before me.

A. JOHNSTON.

The remaining two-thirds of the property, real and personal, whereof the said Thomas Seaton, dec'd. seized and possessed,

the said James and John claimed, held and appropriated to their own use, and have never accounted for unto the said Harriet, but on the contrary, they, and those who claim under them, hereinafter mentioned, have denied, and still do deny and refuse, all account thereof to her.

That James Seaton and Frederick Hargnet took out Letters of Administration upon the estate of said Thomas, and settled an account as his administrators.

VI. Your complainants charge that in equity the said James and John received and held the said property, real and personal, whereof said Thomas died seized and possessed, and that remained after the payment of his debts, in trust to and for the use of said Harriet, and that the same or the value thereof, amounting to a large sum, exceeding ten thousand dollars, should be accounted for, transferred or paid unto her by the said James and John, or their heirs, assignees and personal representatives. That the real and personal estate aforesaid of the said Thomas, as complainants are informed, was divided between the said John and James, and a portion thereof has been sold and conveyed to third parties unknown to your complainants, but they know not and cannot state what part of the real estate is held by the said John and James, or their heirs, assignees, or representatives, and pray a discovery thereof.

VII. That the said Harriet was born in May, 1823, and was an infant eight years old at the time of the death of her father, the said Thomas Seaton. On the 9th of March, 1840, being a minor, under twenty-one years of age, to wit: seventeen years of age, she was married to Augustus Barry, and remained under the disability of coverture as his wife, until his death, on the twelfth day of August, 1848; and on the 30th of November, 1851, she intermarried with her present husband, Abraham D. Bedilion. That immediately after the removal of her disability in 1848, she retained and employed legal counsel to examine into, and by due course of law to prosecute and establish, her claim by reason of the premises, to the real and personal estate of the said Thomas Seaton. That under the direction of counsel, she on the ninth day of March, 1853, commenced and prosecuted an action of ejectment for a portion of said real estate, in the Circuit Court of the United States,

against the tenants in possession thereof, claiming under James and John Seaton, but at the May Term of said Court she was nonsuited on the ground that her claim, if any, was an equitable right, which could not be enforced in said Court by action of ejectment.

VIII. That she is informed and believes, and so charges the fact to be, that the said James Seaton has departed this life intestate, leaving as his only child and heir-at-law, Margaret M'Gowan, intermarried with John S. M'Gowan, both of whom are citizens and residents of the Western District of Pennsylvania, and are made defendants hereto, and that the said James, before his death, made a voluntary conveyance, or assignment, of his real estate and personal property to the said John and Margaret, or one of them.

That the said John Seaton hath also departed this life intestate, leaving as his children and heirs-at-law, Thomas Seaton and Robert Seaton, both of whom are also citizens and residents of the Western District of Pennsylvania, and are also made defendants hereto. And the said Thomas now lives on part of the land whereof the father of the said Harriet died seized.

IX. Your complainants charge that the said John S. M'Gowan and Margaret, his wife, are in possession of a portion of the property whereof the said Thomas died seized and possessed, having received the same by voluntary conveyance or assignment of the said James Seaton, without valuable consideration or without notice of the adverse right or equitable rights of the said Harriet, and that the said John S. M'Gowan and Margaret, his wife, are, by reason of the premises, chargeable in equity therewith as trustees for the said Harriet, and bound to render her a discovery and account thereof. And also that the said Thomas Seaton and Robert Seaton as heirs-at-law of the said John Seaton, are seized and possessed of another portion of the real and personal estate of the said Thomas, and are also chargeable in equity as trustees for the said Harriet, and bound to render her a discovery and account thereof.

X. But the said John S. M'Gowan and Margaret, his wife, and the said Robert Seaton and Thomas Seaton combining and confederating together, wholly deny all right and claim of said

Harriet in and to any portion of the real and personal estate of her father Thomas Seaton, whereof they are seized or possessed, and pretending that she has no legal or equitable claim thereto, refuse to make any discovery and account thereof, and claim to hold and appropriate the same to their own use.

XI. All of which actings, doings and pretense are contrary to equity and good conscience.

In consideration whereof, and inasmuch as your complainant is without plain and adequate remedy at law, and can only have discovery, account and appropriate relief in equity :

Your complainant prays the writ of subpœna in equity against the said John S. M'Gowan and Margaret, his wife, and the said Robert Seaton and Thomas Seaton. That under their corporal oaths respectively, they may full, true and perfect answer make to all and singular the premises, and specific answers make to the several interrogatories hereto annexed and numbered from one to four, inclusive.

That an account may be taken of the real and personal estate whereof the said Thomas Seaton died seized, and that the equitable right of the said Harriet to the same, after the payment of his debts, may be ascertained, and that the same or the value thereof may be decreed to her, or that the complainant may have such other and further relief in the premises as equity and good conscience may require.

C. SHALER & CO. and
H. P. LAIRD,
Solicitors for Complainants.

The following interrogatories are required to be answered by defendants hereinbefore named :

1st. What was the amount of the personal estate of Thomas Seaton, deceased, and what disposition was made thereof?

2d. What real estate did he die seized of, and whether any and what portion thereof is in the possession of or claimed by defendants or either of them, and by what right or title is the same claimed, and the value thereof, and whether he did not die seized of the lands mentioned in Exhibit "A?"

3d. In what manner, and by whom, was the residue of the real estate of the said Thomas disposed of? Where is it situated? In whose possession and under what right or title is the same held or claimed, and the value thereof?

4th. Whether any and what part of the real estate whereof the said Thomas died seized, has been sold, assigned, transferred or conveyed by the said John and James Seaton to any other person or persons? to whom, and at what date, and what form of conveyance?

C. SHALER & CO. and
H. P. LAIRD,
Solicitors for Complainants.

EXHIBIT "A."

Lands formerly of Thomas Seaton, in the township of Ligonier and county of Westmoreland.

No. 1. Lot No. 5 in the borough of Ligonier. Bounded on the west by lot No. 7, on the southeast by lot No. 3, being 60 feet in front, 180 feet back; being on Main street, on the corner of the Diamond. Tenant in possession, Washington Cook.

No. 2. Lot No. 12, fronting on Main street, 50 feet, running back to an alley 180 feet. Bounded on the northwest by Fairfield street, and on the southeast by lot No. 10. Tenant in possession, Lydia Sergeant. (Owned by her.)

No. 3. Lots Nos. 25 and 27. Tenants in possession, Thomas Morrow and Hezekiah Black. (Owned by M'Gowan.) Each 60 feet fronting on Main street, and running back 180 feet to an alley. Bounded on the northwest by Lot No. 4, and on the southeast by lot No. 29. These lots are on the southeast corner of the Diamond.

Plot of the Borough under Book 13, page 28, Westmoreland county.

No. 4. A tract of land containing 220 acres and 147 perches. Tenants in possession, Francis Smith and Robert Mickey. (Owned by Frances Smith.) Adjoining lands of Robert Graham, Robert M'Conogaughie, John Seaton and Joseph Neisswinger, and J. C. Livergood and others.

No. 5. A tract of land containing 188 acres, more or less, adjoining R. Graham, heirs of James O'Hara, John M'Farland and the town of Ligonier, as originally laid out, and the turnpike road at others. Tenants in possession, Joseph Moorhead, Widow Reefer and Robert Galbraith. (Owned by Joseph Moorhead.) A large part of this tract is owned in small quantities by the citizens of the town or outlots.

No. 6. A tract of land containing 162 acres 404 perches. Tenant in possession, Joseph Seaton. (Owned by him.) Adjoining John Giesey, heirs of James O'Hara, Joseph Neisswinger, Frances Smith and others.

COMPLAINANTS' EVIDENCE.

SAMUEL KELTZ, (called by Complainants and sworn.)

Ques. 1. State your age and place of residence.

Ans. I am in my sixty-second year; my residence is Ligonier township, Westmoreland county, Pennsylvania; I was born and raised there, and have lived there all my life.

Ques. 2. State whether you knew Thomas Seaton, and whether you are acquainted with the parties to this proceeding.

Ans. I knew Thomas Seaton, deceased, well; I was raised within about three miles of where he resided; I know the complainants and the respondents; I have known Mrs. Bedilion since she was a child.

Ques. 3. Where did Thomas Seaton live, and in what year did he die?

Ans. Thomas Seaton lived handy to Ligonier, in Westmoreland county; he died, I think, in July, 1831.

Ques. 4. As near as you can tell, what was his age when he died?

Ans. I suppose he was between fifty and sixty years of age when he died.

Ques. 5. Who composed Thomas Seaton's household whilst you knew him?

Ans. I am not certain who composed his household; he was not married; he had different housekeepers. At the time of his death,

and some time preceding, Mrs. Mary M'Dowell, Harriet, (now Mrs. Bedilicn) and himself constituted his family.

Ques. 6. State, if you please, whether you ever heard Thomas Seaton speak of Harriet, and if so, in what way did he speak of her ; and what he said, if anything, with regard to the disposition of his property. State fully all you know about it.

Ans. I have frequently heard Thomas Seaton speak of Harriet, again and again ; he spoke of her as his daughter and child, and he owned her as such. He told me that he owned her as such. He always called her his daughter and his little pet. He stated to me again and again, that she should have all his property after his debts were paid ; that she should have, after his death, whatever it would net after the debts were paid. I had frequent conversations with him on the subject ; we were old associates. The reason he assigned why she should have all his property, was because she was his daughter.

Ques. 7. State whether Thomas Seaton had any brothers and sisters, and give their names.

Ans. He had two brothers, John and James, who survived him ; he had no sisters that I knew of ; John and James are now dead.

Ques. 8. What age do you suppose was Harriet at the time of her father, Thomas Seaton's death ?

Ans. I suppose she was about eight or nine years of age.

Ques. 9. State whether at the time of his death, Mrs. Mary M'Dowell and Harriet were living at the house of Thomas Seaton, and for what length of time preceding his death they had lived with him.

Ans. They were living with him at the time of his death, and for several years preceding it.

Ques. 10. State whether or not in the various conversations and interviews which you had with Thomas Seaton in relation to his daughter Harriet, he manifested great love and affection for her, and a desire or determination that she should inherit his entire estate.

Ans. He did manifest great love, kindness and affection for her and spoke of her as, I thought, any father ought of a child, and frequently expressed a determination and desire to me that she should have his whole estate.

Ques. 11. State whether Thomas Seaton was possessed of any property.

Ans. Yes, sir ; I understood and knew the fact that he possessed both real and personal estate and was a man of liberal fortune.

Ques. 12. State whether or not you was present at the funeral of Thomas Seaton.

Ans. I was at the funeral.

Ques. 13. State whether John T. Barclay and Matthew Jack were present at the funeral.

Ans. Yes. They were present at the funeral. They came down the day of the funeral, as far as my recollection serves me.

Ques. 14. What took place at the funeral ;

Ans. After the funeral was over we came back to Mill Creek bridge, about half a mile from Ligonier, to a house occupied by a man of the name of John Brandt ; after some conversation among us, John T. Barclay seemed to insinuate that this daughter Harriet would be cut out of the estate of Thomas Seaton, that his brothers were heirs-at-law, or legal heirs to his estate ; and they then solicited old Robert Johnson and myself to go up to the residence of Thomas Seaton, and John and James Seaton ; the two brothers, to come down, we objected at first, but finally consented to go ; we wanted them to go, but they said they were not acquainted with John and James, but if we would bring them down they would try and do their part ; try to make an arrangement ; by they, I mean John T. Barclay and Matthew Jack. Barclay and Jack are both dead ; we brought down John Seaton and James Seaton ; and there was an instrument of writing drawn by John T. Barclay, which was signed by John and James Seaton ; John Barclay and myself witnessed it. The instrument of writing is the same as a copy which was read to me this morning, said to be a part of the bill in this case.

Ques. 15. State whether John and James Seaton took possession of Thomas Seaton's estate after his death, and whether they and their heirs have kept possession ever since.

Ans. James took possession of it, for he administered upon the estate. He was one of the administrators. I can't say anything about John. I believe they lived on the estate after the death of Thomas. I believe it has been in the possession of the families of John and James ever since. What I mean is, that they occupied all the land themselves, or by tenants.

(Thomas Williams, Esq. for respondents, excepts to the examination of the witness in chief, for irrelevancy.)

Cross-Examination.

The Mrs. M'Dowell, whom I have mentioned as living with Thomas Seaton, dec'd. was, as I understood, the mother of Harriet. I cannot say whether Mrs. M'Dowell had a husband at that time or not, or whether she ever had a legal husband. I am not able to tell how long she lived with Thomas Seaton, nor whether she was living with him at the birth of Harriet. I cannot inform you in what capacity she was living with him. I do not know whether he paid her wages. I was not often at his place of residence before his death.

The conversations to which I have referred, I had with Thomas Seaton in Ligonier and the Mill Creek House near to Ligonier. The Mill Creek House was a tavern. In Ligonier our conversations were sometimes in a tavern, and sometimes not. I cannot tell how many conversations there were—they were very frequent. They took place some years before his death—some of them just previous to his death—maybe two or three months before his death.

Ques. 1. State whether Thomas Seaton was not in the habit of drinking freely and whether you did not join in the indulgence, and whether the conversations to which you have referred did not happen at such times.

Ans. When we met perhaps we did take a little liberally, and sometimes we did not. The conversations, some of them, did occur at these times, and sometimes when there was not a drop of liquor about, and he was always consistent in talking about his daughter, that she should be his heir—the same story. The meeting after the funeral to which I have referred, was at the house of John Brandt. I do not know whether it was a licensed tavern or not, but there was liquor there. The tavern was on our road home going from the funeral, at which we stopped. There were John T. Barclay, Matthew Jack, Robert Johnson and myself in company, that I recollect of. The impression on my mind is that there were others, but I do not mind them, nor how many there were—might have been half a dozen.

Ques. 2. Why did you stop at that time?

Ans. I suppose it was to take a drink and to have a conversation about Harriet. We had a twofold object. It was some time in the afternoon that we stopped. I could not state the hour. We were not long there before Johnson and myself started to bring John and James down. We might have been one hour there—perhaps not that long. James and John had returned to the house with the funeral

procession. It is something like fifty or sixty, or maybe seventy rods from Brandt's to Thomas Seaton's house. John and James went down in the afternoon before night. They came with Johnson and myself immediately. When Johnson and I went up, we told John and James that the object we had in view was to make a divide with Harriet. We did not tell them that Jack and Barclay did not want them to come down and take a drink. I don't recollect whether Jack and Barclay had been drinking or not. I did not see them drink any.

Ques. 3. Were not Barclay and Jack in the habit of drinking pretty freely ?

Ans. I believe I have seen both the gentlemen take a dram, but whether they drank freely or not I do not know. I was not much in their company.

Ques. 3½. State whether they did not offer John and James a drink when they came in.

Ans. If they did, I do not remember it. I cannot tell how long the parties remained together. It was not into the night. To the best of my recollection, it must have been a couple of hours before night when we left Brandt's. I know that while the parties were there there was some liquor drank, but as to the quantity I cannot say. John and James were not excited by liquor, to the best of my recollection.

Ques. 4. Now state the conversation that occurred there at that time, on the matter upon which John and James were brought there.

Ans. As to the precise conversation I cannot now state, but the amount of it was for them (John and James) to agree to give Harriet a third of Thomas Seaton's estate. That was the substance of the conversation.

Ques. 5. Were not John and James persuaded by Barclay and Jack to sign that paper ?

Ans. No ; they did it without any persuasion ; I recollect of mentioning it myself to James, and he said he was perfectly agreed.

Ques. 6. Do you mean to say that James and John were not asked by Barclay and Jack to execute the paper ?

Ans. As it regards that, I cannot tell you anything about it, whether they asked them or not ; the inducement held out to them was to secure a legacy to Harriet ; that was the object.

Ques. 7. What reason or argument, if any you recollect, was urged to induce John and James to sign the paper?

Ans. There was no argument or reason urged to induce them to sign it. When Barclay drew up the paper they signed it voluntarily; they were *keen* to do it; I mean that they did it without any reluctance, and seemed anxious to put their names to the paper.

Ques. 8. Did not Barclay and Jack urge upon James and John that they were abundantly able and might very well afford to divide the property of Thomas Seaton with Harriet?

Ans. There was no such conversation took place that I know of; it was understood that Thomas Seaton had made no will; that he had not disposed of his property by will. Barclay and Jack went toward home that evening; I went with them about three miles; whether they got home or not that day I do not know. James Seaton and Frederick Harganet administered on the estate of Thomas Seaton. At the time of his death, as far as I know now, Thomas Seaton must have owned a couple of farms and some town property; I cannot tell how much of his property was sold to pay his debts. I am unable to say where John and James lived at the time of Thomas Seaton's death, or on whose property they lived in Ligonier township; I don't know whether they had any farm of their own. There is one place which belonged to Thomas Seaton at his death, as I understood, that is now in the possession of a descendant of John Seaton; I don't know of any other portion of the property of Thomas Seaton that is in the possession of the descendants of John or James; as far as I know, all the rest has been parted with or sold.

Re-examined in chief.

Ques. 1. Where was the agreement to which you have referred in your previous examination, dated July 22, 1831, signed by John and James Seaton and witnessed by you, prepared and drawn up?

Ans. At Brandt's at Mill Creek; it was drawn up after the funeral by John T. Barclay; I should suppose that the funeral was in the fore part of the day; that is my impression, though it is not distinct; it was in the after part of the day the agreement was prepared and executed.

Ques. 2. Do you remember whether or not it was Mr. Barclay who first proposed the propriety of John and James Seaton making the

agreement before mentioned, and requesting you to bring them to Brandt's house ?

Ans. I am unable to say whether it was Mr. Barclay or Mr. Jack, but it was one of them, and the impression on my mind is that it was Barclay.

Ques. 3. State whether John and James Seaton, or Mr. Barclay or Mr. Jack or yourself were under the influence of liquor during the time the agreement was being prepared or executed ?

Ans. No, sir ; I do not believe either of us was.

Cross-Examination resumed.

Ques. 1. You say in answer to the last question that you believe that none of the persons there referred to were under the influence of liquor ; do you mean thereby by the use of the word believe, that you are not quite sure of the fact ?

Ans. I do not mean that I am not sure of the fact, for I am certain we were sober at the time the agreement was executed.

Ques. 2. Can you state how many drinks each of you took that day ?

Ans. No, sir ; I cannot.

SAMUEL KELTZ.

Sworn and subscribed before me,

J. E. BRADY, *Com'r.*

DAVID TAYLOR, (called by Complainants and sworn.)

Ques. 1. State your age and place of residence.

Ans. My age is about fifty-five and I reside in Ligonier township, Westmoreland county, Pennsylvania.

Ques. 2. State whether you are acquainted with complainants in this case and how long you have known them.

Ans. I have been acquainted with Harriet for ten years back, may be more ; she was a little girl then, not more than three or four years old ; I cannot tell how long I have known Mr. Bedilion.

Ques. 3. Were you acquainted with Thomas Seaton, and how long before his death ?

Ans. I could not tell how long I was acquainted with him, but it was a good while ? I worked for him when he made the turnpike over Laurel Hill.

Ques. 4. When did he die, and where were you living at the time he died?

Ans. He died on July 21, 1831; I was then living on his place.

Ques. 5. State who were the inmates of his family at that time.

Ans. Mrs. M'Dowell and Harriet, the complainant, and himself were the inmates of his family.

Ques. 6. How many years had Harriet been with him before his death?

Ans. I cannot give any satisfactory answer to that question, but as near as I could tell, I knew her to be there four or five years before his death.

Ques. 7. Was Harriet or was she not spoken of by him as his daughter, and acknowledged by him as such?

Ans. I have heard him calling her his daughter different times.

Ques. 8. Did you hear him say anything as to who should inherit his estate, and if so, what did he say? answer fully.

(Objected to.)

Ans. I heard him say that his intention was at his death that what little he had after his debts were paid he would leave to Harriet; I believe that was all I heard him say; it was but one time; I heard him say this in corn-planting time in the spring, and he died the following harvest; we were cutting grain the day he died.

Ques. 9. State whether Mr. Thomas Seaton was in Greensburg shortly before he died, and whether he mentioned the purpose for which he went there to you?

(Objected to so far as it regards the declarations of Thomas Seaton.)

Ans. I did not know for certain whether he was in Greensburg or not, but I know he was away from home, and that he came home sick shortly before his death. I do not know what took him away. That sickness continued until his death.

Ques. 10. If Mr. John T. Barclay and Matthew Jack came there about that time, state whether they came before or after Thomas Seaton's death. If after his death, state how soon after.

Ans. I saw Barclay there after his death at the vendue. I never saw Jack there that I know of. I was not at the funeral. The only time I saw Barclay there was at the vendue.

Ques. 11. State whether John and James Seaton were about Thomas Seaton's house during the last illness of Thomas.

Ans. I saw James Seaton there, but I won't be so certain that I saw John there ; I don't recollect. I don't recollect how long Thomas Seaton was sick before he died ; maybe about eight or ten days ; I won't be certain about the length of time ; he did not lay long sick. I never heard of his being married ; he was not married that I know of. He had no sisters that I ever heard of ; he had two brothers, James and John, living when I knew them ; they were the only brothers that I knew of at the time of his death ; James is dead and left one child, a daughter, married to John T. M'Gowan ; John is also dead ; he was married ; he has two sons living that I know of, Robert and Thomas Seaton ; his wife is dead ; Thomas Seaton lives on the mansion farm of Thomas Seaton the elder ; I do not think Robert lives in Ligonier township, though I am not certain. I know Robert Seaton owned a part of the old mansion farm last year and paid taxes for it ; I do not know whether he has sold it or not. I think the father and mother of Thomas Seaton the elder were dead at the time of his death ; Mrs. M'Dowell's maiden name before her marriage was Mary Devoe ; she was married to M'Dowell since the birth of Harriet ; she lived in the family of Thomas Seaton prior to her marriage with M'Dowell. Thomas Seaton occupied two farms when I was with him ; he had the farm adjoining Robert Graham, Robert M'Caughey, John Seaton and others, and lived on this farm at the time of his death, and it is now owned by Francis Smith ; the farm that Thomas Seaton now lives on adjoins lands of the widow Martin, Francis Smith, John Geery, and others ; that was one of the farms claimed by Thomas Seaton, dec'd. at the time of his death.

Cross-Examination.

Mrs. M'Dowell was married to M'Dowell before the death of Thomas Seaton ; she was not married before she went to live with Thomas Seaton ; she was married after she went there to live ; I cannot recollect how long it was after she went to live with Thomas Seaton that she was married ; her husband lived with her after they were married in Mr. Seaton's family ; he continued to live in Thomas Seaton's family until his death ; I don't know about her, but I think he was receiving wages ; she appeared to be mistress of the house, she did all the business at any rate ; I cannot say how Thomas Seaton and she had it ; I don't know whether Thomas Seaton was boarding with her, or whether she was a servant in the house ; I do not know that she

claimed and received wages from the administrators after Thomas Seaton's death ; I do not know whether Mrs. M'Dowell took Harriet with her when she went to live with Thomas Seaton, but I know she (Harriet) was always there with her mother ; they were there when I first went there ; I went there about fifteen months before Thomas Seaton died, and when I came there Mrs. M'Dowell and Harriet were there ; I don't know when or how Mrs. M'Dowell and Harriet came there.

Direct resumed.

Ques. 1. State how Thomas Seaton used Harriet during the time that you was in his employ—whether it was kind and affectionate or otherwise.

Ans. He used her very kindly ; never seen him any other way ; sometimes he called her his child and sometimes Harriet.

DAVID TAYLOR.

Sworn and subscribed before me.

J. E. BRADY, *Com'r.*

Adjourned by consent to meet on Thursday, the 30th inst. at 9 o'clock, A. M.

July 30th, 1857. Met pursuant to adjournment. Present

MARY M'DOWELL, (called by Complainants and sworn.)

I reside in Lawrenceville, in Allegheny county ; I am in my fifty-second year ; I know all the parties to this suit.

Ques. 1. State whether you were acquainted with Thomas Seaton, dec'd.

Ans. I was.

Ques. 2. When and where did he die ?

Ans. He died on the 31st day of July, 1831, in Ligonier Valley, Westmoreland county.

Ques. 3. State whether or not complainant, Harriet N. Bedilion, is your daughter, and whether or not Thomas Seaton, dec'd. was her father—in what year and where she was born ?

Ans. Harriet N. Bedilion, the complainant, is my daughter ; Thomas Seaton, dec'd. was her father ; she was born on the 2d day of May, 1823, in Ligonier Valley ; Mr. Seaton and myself were both unmarried at the time of her birth ; neither of us had been married before that time.

Ques. 4. Where were you living at the time of Harriet's birth.

Ans. I was living with James Seaton, the brother of Thomas Seaton, who joined places with Thomas; had not lived at Thomas Seaton's house before her birth.

Ques. 5. State at what time you and Harriet went to the house of Thomas Seaton to live.

Ans. In May, 1824, a year after her birth.

Ques. 6. State whether or not you and Harriet remained at his house until his death.

Ans. Harriet never left his house until after his death; I was away about two months during the whole time, but I was there at the time of his death.

Ques. 7. Who composed the household of Thomas Seaton at the time of his death?

Ans. Thomas Seaton, Harriet, myself and my husband.

Ques. 8. When were you married?

Ans. On the 22d day of February, 1831, I was married to my present husband.

Ques. 9. State, if you please, whether or not Thomas Seaton recognized Harriet as his natural and only daughter, and whether he spoke of her as his child, and what intentions he manifested with regard to the disposition of his estate—whether or not he expressed his design that she should inherit it?

Ans. Thomas Seaton did recognize Harriet as his natural and only daughter, and he spoke of her as his child. He always said so, frequently, that Harriet should inherit his estate. He expressed this intention at the time he lay sick, and before it, and from the time she came into his house to reside. He frequently spoke of the disposition of his property in connection with Harriet.

Ques. 10. In speaking of Harriet in the presence of strangers, state how Thomas Seaton spoke of her and how he introduced her, to wit: whether as his child, or how?

Ans. He always spoke of her as his only daughter, in the presence of strangers and friends too.

Ques. 11. State now whether before his death Thomas Seaton did or did not express a desire to make a will, and if so what steps he took, if any, to consummate that intention, and what occurred in connection therewith?

Ans. Thomas Seaton before his death did express a desire to make a

will at different times. A short time before his death, before he took sick, he went to Greensburg with the express purpose, as he told me, of having John T. Barclay, Esq. the lawyer, to draw a will for him, that he intended to leave Harriet his whole estate. He went to Greensburg, and while there he seen lawyer Barclay and spoke to him on the subject—what he wanted done, what disposition he wanted to make of his property. He (Mr. Seaton) took sick while he was there, and returned to Ligonier, and Mr. Barclay was to write his will, and Mr. Barclay and Matthew Jack were to come down to Ligonier in a day or two for the purpose of writing his will; he told me so himself; I mean Thomas Seaton told me.

Ques. 12. How long was Thomas Seaton sick after his return from Greensburg?

Ans. He came home on Friday and died the next Thursday following.

Ques. 13. During his last illness did he or did he not manifest any anxiety or desire for the preparation and execution of his will?

Ans. He did. He spoke of it very frequently during that sickness. He told both his brothers, John and James, at different times, that he expected Barclay there to write his will.

Ques. 14. Did he or did he not inform his brothers what disposition he intended to make of his property, and that Harriet should inherit it?

Ans. He did at different times during his last illness.

Ques. 15. Be good enough to state whether or not Thomas Seaton expressed a desire during that illness to have Messrs. Barclay and Jack sent for, and whether or not they were sent for, and if not sent for, explain the reason.

Ans. He did during that illness frequently express a desire that Messrs. Barclay and Jack should be sent for to write his will. They were not sent for, to my knowledge; I do not know the reason they did not send for them. James told Thomas to not let that trouble his mind or worry him, that he would attend to having them fetched there. Every new arrival that would come Thomas Seaton would ask whether that was Messrs. Barclay and Jack. They told him to not worry himself so much, that they thought he was not dangerous. When I speak of they, I mean John and James, brothers of Thomas Seaton. Messrs. Barclay and Jack did not get there till after his death. He died on Thursday and was buried on Friday;

I don't know when they got there, but it was after his death but before he was buried.

Ques. 16. State who was present at the time Thomas Seaton died.

Ans. His brother James I know was there; I cannot recollect who all were there; I was present and saw him draw his last breath. James Seaton's wife, John Seaton's wife and Elizabeth M'Dowell were also there. Harriet was not present; she was in bed. He died early in the morning.

Ques. 17. State any conversation that you heard between Thomas Seaton and either of his brothers, James or John, within a short time before his death, with regard to the disposition of his property in connection with his intentions toward Harriet; when and where did it occur? state fully.

Ans. The day but one before Thomas Seaton died he called his two brothers up to the bed, John and James, and he said to them that if anything should happen before he died that they could not get Barclay and Jack there, he wanted them to promise him to not put anything in the road between Harriet and his estate, that he wanted her to have all he had after his debts were honestly paid. He said she is the only child that I claim as my own on earth. He then lifted up his hands and took James with one hand and Harriet with the other, and called all in the room around the bed to witness what he would say. They, John and James, promised to him there before God and those present, that she should have all of it; that they wanted none of it; that she should have every cent of it.

Ques. 18. State who was present on that occasion as well as you can recollect.

Ans. James Seaton and wife, John Seaton and wife, Mrs. Hartzel, Mrs. Margaret E. Anchony, and myself were present. There were more there, but it is so long ago I can't remember who they were. Harriet was there. I believe Mrs. Hartzel is living in Ligonier some place.

Ques. 20. State what Thomas Seaton's condition of mind was at the time of the interview which you have just detailed.

Ans. I believe that his mind was as sound as it ever was. His mind was sound.

Ques. 21. Were James and John Seaton, or their families, much about Thomas Seaton during his last illness, or not?

Ans. James Seaton and his wife were there all the time; they

never left his room, except when they would go to their meals. John and his wife were in and out frequently, but did not stay all the time.

Ques. 22. Please state whether or not, during his last illness, Thomas Seaton spoke frequently in relation to the distribution of his property in the presence of his two brothers, and if so, whether at any time he expressed a wish or desire to have any one inherit any part of it, excepting his daughter Harriet?

Ans. He did frequently, during his last illness, in the presence of his two brothers, James and John, speak of the disposition of his property. He did not, at any time, express a desire to have any one inherit any part of it, excepting his daughter Harriet.

Ques. 23. Was he or was he not considered by you and his brothers dangerously ill for several days preceding his death?

Ans. He appeared to be very bad, but I did not know what danger he was in. He himself at times expressed himself that he would not recover.

(Thomas Williams, Esq. counsel for respondents, objecting to all the foregoing testimony as irrelevant and incompetent, and to the form of interrogation throughout as leading and improper, proceeds to examine the witness.)

Cross-Examination.

Ques. 1. State in what capacity you went to live with Thomas Seaton—whether as his mistress or a hireling at wages, and whether you slept with him while you resided in his house.

Ans. In the first place, he wanted me to fetch his child home to be on his own property—in the next place, he wanted me to go there to take charge of his house and what he had there. He had a good deal in his house and had to leave home. He had a salt works on Kiskiminetas, where he staid pretty much all the time. I received wages. I did sleep with him while I lived in his house, sometimes.

Ques. 2. Do you intend or mean by your last answer, that he continued to reside at the salt works until the period of his death, and if not, how long did he live there, and how much of the time was he at his home near Ligonier where you resided?

Ans. I do not mean that he continued to reside at the salt works to the period of his death. I think he was in the neighborhood of two years at the salt works, but am not quite sure. While he was at the salt works he would be at home once a month. Sometimes he would be at home two days and sometimes three.

Ques. 3. Were there not one or more other parties who had a claim on Harriet, and when did you first tell Thomas Seaton that she was his child?

Ans. There were not one or more parties who had a claim on Harriet. I first told him that Harriet was his child when I found it out myself.

Ques. 4. State whether Thomas Seaton had no other illegitimate children, one or more, who were acknowledged by him as such?

Ans. I never heard him acknowledge one. I never did. I don't know whether he had any other or not.

Ques. 5. Did you know a woman named Margaret Moore, and if you did, had she not a child, a daughter, who was regarded in the neighborhood as a natural child of said Thomas Seaton, and who was sent to school and educated by him as such?

Ans. I knew a woman named Margaret Moore. I know that she had an illegitimate child; it was generally said in the neighborhood that it was Thomas Seaton's child. Thomas Seaton did not send the child to school and educate it as his child. The child was a girl. He did not send the child to school, to the best of my knowledge. I know he didn't, too.

Ques. 6. Don't you know that Thomas Seaton paid for the schooling of that child, or a part of it?

Ans. I know he did not.

Ques. 7. Was that child living at the period of Thomas Seaton's death, and is she living now; if yea, where is she living; if married, what is her present name?

Ans. That child was living at the death of Thomas Seaton, I do not know whether she is still living; I do not know whether she was ever married.

Ques. 8. Were not Matthew Jack and John T. Barclay in the habit of visiting at Thomas Seaton's home while you lived there, and did they not sometimes visit you in Thomas Seaton's absence?

Ans. I never saw them about the house, until after his death, in my life.

Ques. 9. Don't you know that on the occasion of Thomas Seaton's last visit to Greensburg, he went there for the express purpose of getting some money that was owing to him by the Greensburg and Stoystown Turnpike Company, and did he not get such money at that time?

Ans. He did not tell me that he went to Greensburg for that purpose, but I know that he got money there at that time.

Ques. 10. Was he sick when he returned home, or did he fall sick afterward?

Ans. He was sick when he came home.

Ques. 11. Didn't he ride out from home after his return home and pay a visit to the house of his brother James?

Ans. He did not.

Ques. 12. You say that you were absent about two months from the time you went to live with Thomas Seaton, till his death; state when that was, and where you were, and what was the occasion of your absence.

Ans. I was at my mother-in-law's with my husband; I was married on the 22d day of February, 1831; it was at the time I was married that I was absent; the occasion of my absence was the marriage; I think I returned to Thomas Seaton's house about the 1st May of the same year.

Ques. 13. Was there any body to do the work of Thomas Seaton's house during his last illness, except yourself?

Ans. There was; Elizabeth M'Dowell; she was a cousin of my husband and a cousin to Thomas Seaton.

Ques. 14. How long was Elizabeth M'Dowell at the house?

Ans. She came shortly after my return, after I was married, and remained till after his death.

Ques. 15. State whether Elizabeth M'Dowell during that time was not his housekeeper, and whether your business as a hireling was not mainly in the kitchen.

Ans. Thomas Seaton told me to hire Elizabeth M'Dowell and any other girl that suited me and he would pay her; I considered myself the housekeeper; I attended to all the business about the house, whether in the kitchen or anywhere else.

Ques. 16. State whether Henry Anchony and John Clark were not frequently at the house of Thomas Seaton during his last illness; and whether they, or either of them, were there on the occasion of the conversation you have referred to with James and John or at the time of Thomas' death?

Ans. John Clark was never in the house during his illness at all, as far as I know. Mr. Anchony was there frequently during his sickness; neither of them was there at the time of the conversation or at

the time of his death, to the best of my knowledge. I did not see them. They are both dead.

Ques. 17. Did not Clark and Anchony both live in the immediate neighborhood of Thomas Seaton—were they not both very well able to write a will for him if he desired it, and was he not able to do it himself?

Ans. I don't know where Clark lived; Anchony lived in Ligonier town, a short distance from Thomas Seaton. I don't think the town was a half mile off. I suppose they were able to write a will for him, if he had requested it. I did not see Clark there at all. It was my impression that Thomas Seaton was not able to write a will himself.

Ques. 18. When you say Thomas Seaton was not able to write a will himself, do you mean merely that he was not able to do it during his sickness, or do you intend that he was not able to do it at any time?

Ans. I mean he was not able to do it during his sickness.

Ques. 19. Were not Anchony and Clark both Justices of the Peace, and in the habit of writing wills at that time for the people in the neighborhood?

Ans. I do not know whether they were Justices of the Peace at that time. I never heard tell of them writing wills, either one of them.

Ques. 20. How long was Thomas Seaton confined to his bed during his last sickness?

Ans. He came home sick on Friday from Greensburg, and was up and down to the following Thursday, when he died. He was not confined to his bed, but was up and down till the day before his death.

Ques. 21. How long did you remain at the house of Thomas Seaton after his death, and when you left it where did you go, and where have you been since?

Ans. I might have remained at his house a week or ten days; I am not sure, but it was but a short time; when I left it I moved into a house on Thomas Seaton's place. I stayed there till the following spring. I then moved on to my mother-in-law's farm in the neighborhood, and lived there about two years, I believe. I remained in the same neighborhood till 1840, when I removed into Allegheny county, where I have ever since resided.

Ques. 22. Did Harriet continue to live with you; if not, what became of her?

Ans. She did not continue to live with me; she went to Greensburg to school; Mr. Barclay took her and put her to school there.

Ques. 23. Was she ever allowed to live with you afterward until she was married?

Ans. She was always at home at my house every vacation there was.

Ques. 24. You say that it is so long ago that you cannot remember who were present at the conversation to which you have referred, between Thomas Seaton and his two brothers, will you tell us how it is that you undertake to recite the conversation itself?

Ans. Because I was there present and heard it.

Ques. 25. Did not you see all the people who were there at that time; if you did, why is it that you cannot recollect as well what you saw as what you heard?

Ans. Yes; I saw all that were in the room. I recollect what I heard as distinctly as if I had heard it yesterday. I recollect it because I was paying particular attention to what Thomas was saying to his brothers and what they were saying to him.

Ques. 26. State how many persons were in the room at that time.

Ans. John Seaton and his wife, James Seaton and his wife, Harriet, Elizabeth M'Dowell, Mrs. Anchony, Mrs. Hartzel and myself; that is all that I remember distinctly. There may be two or three others, but who they were I do not recollect.

Ques. 27. Were the people there present seated or standing at that time?

Ans. They were sitting, and Thomas Seaton called them up to the bed.

Ques. 28. What part of the room were you in, and were you seated or standing at the time?

Ans. I was standing beside his bed, close to the head of it; the bed was standing in the corner of the room, but it was pulled out from the wall a piece, and any one could walk around it.

Ques. 29. What were you doing there?

Ans. I was standing there waiting on him, that if he wanted me to give anything to him that I could hand it to him.

Ques. 30. You say that you cannot recollect all the people that were present, may you not be mistaken as to the precise language of the parties?

Ans. No; I am not mistaken, for I took particular notice to it.

Ques. 31. Repeat then that conversation, if you please.

Ans. Thomas called his brothers up to his bed to him, and told them that if anything should happen that he should die before they could get Barclay and Jack there, he wanted them to promise him that they would not put anything in the road between Harriet and his property. Thomas held his hand up and James reached his hand and took it, and had Harriet by the other hand, and called all in the room to witness what he was saying. They, John and James, promised before God and all that were in the room, that she should have it all, every cent, that they wanted none of it. Thomas then said, She is the only child on earth that I claim as my own. They promised there that they would see that she should get it. I do not remember that Thomas said anything more, but he appeared to be satisfied.

Ques. 32. Which of the two brothers made the first answer?

Ans. John. He was standing close by the bed at the time.

Ques. 33. Give us the precise language of John, if you please.

Ans. John told his brother Thomas that he wanted the child to get the property. He said that he did not want any of it. That was the amount of it.

Ques. 34. What did James then say?

Ans. James said about the same thing. He told his brother Thomas as he did not want one cent of it. James said that he would see that she should have it.

Ques. 35. Did you intend by your recital of this conversation, to give the precise words of the parties, or the substance of what was said?

Ans. I have given the precise words.

Ques. 36. How often have you told this story, and to whom and when did you first tell it?

Ans. I never told it very often. I have talked about it. I don't know that I can tell when I first told or to whom I first told it.

Ques. 37. How long was it after Thomas Seaton's death that you first told it?

Ans. It was told in the house that evening of the day that he died. I can't tell when I first told it, but I know it was talked of all through the house the day of the funeral and the day he died.

Ques. 38. Who told it that evening of the day on which he died?

Ans. I spoke of it myself, and some of the inmates of the house spoke of it; them that were in the house.

Ques. 39. Who were present when this was spoken of in the house?

Ans. Mrs. Anchony and me spoke about it. Elizabeth M'Dowell was there. John Seaton's wife and me spoke of it that evening and many times. I don't recollect any other persons.

Ques. 40. Who were there when you say it was talked of on the evening of the funeral?

Ans. Mr. Anchony, Elizabeth M'Dowell, Mrs. Anchony were there; that is all that I remember.

Ques. 41. Did the wife of John Seaton ever treat you as an associate or a friend, so as to talk to you confidentially on such subjects?

Ans. She came to see me many a time anyhow, and she talked to me on the subject frequently.

Ques. 42. I want to know from you whether you were not in the habit of indulging freely in the use of ardent liquors at that time.

Ans. Not very much.

Ques. 43. Did you indulge in them to any extent, or at all?

Ans. When John Seaton's wife would come to see me I would treat her, and when I would go to see her she would treat me; and that was the amount of it.

Ques. 44. Will you state whether you were not more than once carried into your own house near that time, in a state of intoxication?

Ans. No! I was not.

Ques. 45. You say that after the death of Thomas Seaton you went into another house on the farm on which he died. By whose authority did you go there? Did you rent it, or how did you enter and occupy?

Ans. The house into which I moved was not on the farm on which he died. It was on the old Seaton farm. I went in under the authority of James Seaton. We did not rent it. He told us to move in. James Seaton at the same time went into the house in which Thomas died.

(Counsel for complainants excepts to foregoing cross-examination as irrelevant and incompetent, and as not being a legitimate cross-examination.)

Direct Examination resumed.

Ques. 1. Have you ever had any other children besides Harriet?

Ans. No!

Ques. 2. When you stated in your cross-examination, that you remembered the conversation which took place between Thomas Seaton

and his brothers, John and James, but that you did not remember all the persons that were present at it, you omitted to say at what time of the night or day that conversation took place. Be good enough to fix that time now.

Ans. It was on Tuesday before he died, at about two o'clock in the afternoon. He died on Thursday morning; it might have been between seven and eight o'clock.

Ques. 3. Are the periods of the conversation which you have detailed and of his death fixed definitely in your mind; that is, have you a distinct recollection of the times at which both occurred?

Ans. I have.

Ques. 4. What particular reason was there that impressed either the literal language or the substance of the conversation between Thomas Seaton and his brothers, already several times referred to, so distinctly upon your mind?

Ans. Because I thought it a very solemn thing to see a brother make a promise to a brother on his bed and in manner dying, or laying on his death-bed.

Ques. 5. State whether the conversation between Thomas and his brothers was or was not very brief.

Ans. It was. That was pretty much all they talked about all the time. Since 1840 we have lived in the same neighborhood in this county. In Lawrenceville. My maiden name was Mary Dewer.

MARY M'DOWELL.

Sworn and subscribed before me.

J. E. BRADY, *Com'r.*

MARGARET E. ANCHONY, (called by Complainant and sworn.)

I reside in Bridgewater, Beaver county, Pennsylvania; I am sixty-six years of age this winter. I formerly lived in Ligonier township, Westmoreland county. I am acquainted with the parties to this suit.

Ques. 1. Did you know Thomas Seaton, deceased, in his lifetime?

Ans. Yes, sir; I knew him for about twelve years before his death. I was the wife of Henry Anchony; my husband kept tavern in the Ligonier House, in the town of Ligonier.

Ques. 2. How far did Thomas Seaton live from you during the twelve years preceding his death?

Ans. About half a mile. His farm was about this distance from where we kept tavern.

Ques. 3. When and where did you become acquainted with Harriet, one of the complainants?

Ans. When she was a small child ; when Thomas Seaton took her home. She and mother went there together ; he brought them both home at the same time. We had lived in Ligonier about ten years before Thomas Seaton brought Harriet and her mother home.

Ques. 4. State if you know where Harriet's mother was living at the time of Harriet's birth.

Ans. She lived with Mrs. James Seaton, her aunt. Mrs. Seaton was the aunt of Mr. M'Dowell, being her father's sister.

Ques. 5. State how far distant from James Seaton did Thomas Seaton live, and was he married or not?

Ans. It was about a mile and a half. He was not married, to my knowledge.

Ques. 6. Were you in the habit of visiting Thomas Seaton's house after Harriet and her mother had gone there, and state whether you were on terms of intimacy with him?

Ans. Yes, sir ; I visited them frequently ; I was on terms of intimacy with him. He had his home at my house for a long time, and appeared like one of the family. He and my husband built the Ligonier House together.

Ques. 7. How did Thomas Seaton speak of Harriet when conversing with you, or with others in your presence—did he or did he not speak of her as his child and daughter?

Ans. He always brought her forward when we went to his house as his little daughter, and made her shake hands socially.

Ques. 8. Was she or was she not the only child that was an inmate of his house whilst you resided in Ligonier?

Ans. Yes, she was the only child that was an inmate of his house at the time. He spoke of her as his only little daughter.

Ques. 9. Did or did not Harriet's mother, Mrs. M'Dowell, then Miss Dewer, live at Thomas Seaton's house after Harriet's birth, and continue to reside there up to the time of his death?

Ans. Yes, sir ; I think Harriet was in her second year at the time she was taken there.

Ques. 10. From that time until Thomas Seaton's death who had the principal charge of his house and of his domestic affairs?

Ans. From the time Mrs. M'Dowell came to Thomas Seaton's

house, she had the charge of it and his domestic affairs. He brought her home from James Seaton's with that intention.

Ques. 11. Was there anybody in the family of Thomas Seaton for some years preceding his death besides himself, Mrs. M'Dowell, Harriet, and for a short time Mr. M'Dowell and one servant?

Ans. Those were all the persons composing the family. Mrs. M'Dowell's sister, Mrs. Wilcox, was there some time, I don't know exactly how long.

Ques. 12. Did you see Thomas Seaton during his last illness?

Ans. Yes; I visited him every day till he died.

Ques. 13. Before his last sickness did you or did you not ever hear him speak of his intentions in regard to disposing of his property, and to whom did he say that his property should go?

Ans. I have heard him speak on the subject of the disposition of his property frequently. He said his property should go to his little daughter Harriet.

Ques. 14. Who took care of Thomas Seaton during his last illness?

Ans. Mrs. M'Dowell had the principal care of him; he wanted her to wait on him.

Ques. 15. State whether or not you were present at an interview which took place between Thomas Seaton and his two brothers, James and John, within a day or two before the death of the former; if so, be good enough to relate what took place on that occasion; whether or not anything was said about the making of a will; and if you know the reason why no will was made, state it also.

Ans. I was present at an interview which took place between Thomas Seaton and his two brothers a day or two before his death; it was on Thursday before he died. He was confined to bed that afternoon. In the fore part of the day Thomas Seaton asked my husband whether Mr. Barclay and Mr. Jack had not come, that he felt very unwell, that he wished to have his business arranged and to have his will made. And his brother James told him not to be alarmed, that he was not dangerous, that he was only scared, and that he would get better. This was between ten and eleven o'clock. He was propped up in the bed at the time. He still grewed wearier and his sickness worried him very much. During this time his hands came into dinner from the harvest field. He told his brothers to tell the hands to come in that he wanted to see them, how they got along. During that time he would still ask whether Mr. Barclay and Mr.

Jack had come ; he was anxious to see them to have his business closed. During that time the hands went to the field, and he still grew worse.

Adjourned to meet on the 31st inst. at 9 o'clock, A. M.

July 31st, 1857. Met pursuant to adjournment. Present as yesterday.

MARGARET E. ANCHONY, (recalled, and her examination in chief continued.)

When James and John Seaton and their wives, and Mrs. M'Dowell, and Harriet and Elizabeth M'Dowell and myself were in the room with Thomas Seaton, he asked us to raise him up in the bed, and we set him up in the bed. Then his words were, "These men have not come yet," Mr. Barclay and Mr. Jack, and James replied, "No, they had not come, but not to worry himself." Then Thomas Seaton said that he wanted all that did not go to the harvest field to come in, that he had particular words to tell them. He then took his little daughter Harriet by the hand, and his brother James with the other hand, and he said, Well now, as Mr. Barclay and Mr. Jack have not come, will you promise me, brothers, that this little daughter of mine shall have all my estate after my debts are paid. They said, Yes, brother, she shall have every cent ; we don't want it ; be contented and do not worry. Thomas Seaton, to the best of my recollection, called to those that were in the room to remember what his brothers had said ; that they would see she should have it, everything belonging to him after his debts were paid. He called a second time to them that were in the room, to remember what his brothers had promised him. After that he was composed and went to sleep. That was about two o'clock in the afternoon on Tuesday. Then I went back to Ligonier to my own house, and Mr. Anchony went and staid with him till the evening. I went out in the evening to Thomas Seaton's house and saw him. He said he felt a good deal relieved, that he had had a sleep. Then I went to the bed and gave him good-bye, and that was the last I saw him alive. He was dead in the morning when I went out.

Ques. 16. You stated that Thomas Seaton during that time was much worried ; if he said any thing to you upon the subject, state now what he said as to the cause of his being worried ?

Ans. He said he was worried on account of Mr. Barclay and Mr. Jack not coming to make his will. He repeated it more than once.

Ques. 17. What was the distance from Thomas Seaton's to Greensburg?

Ans. Eighteen miles.

Ques. 18. State whether James and John Seaton and their wives attended to Thomas Seaton during his last illness.

Ans. His brothers, both John and James, were backward and forward during his whole sickness.

Ques. 19. What age was Harriet at the time her father died?

Ans. I think she was between eight and nine years old. My husband died in 1846.

(Mr. Williams, for respondents, excepts to the foregoing evidence as irrelevant and incompetent, and to the interrogatories as direct and improper, and proceeds to cross-examine.)

Cross-Examination.

I was in the habit of visiting Thomas Seaton. I visited the family. I went there upon the invitation of Thomas Seaton to visit his housekeeper.

Ques. 1. When you visited at Thomas Seaton's house, did you go to see him or his housekeeper?

Ans. I went to see him and his housekeeper both—the family.

Ques. 2. Was she (Mary Dewer) a friend and associate of yours?

Ans. She was a friend and associate of mine.

Ques. 3. Was not the house of Thomas Seaton at that time exclusively frequented by men, and was it not known for that reason, notoriously, as Bachelors' Hall, and did any woman visit there but yourself?

Ans. It was not at that time exclusively visited by men. Never in any time. It was not notoriously known as Bachelors' Hall. It was known as Mr. Seaton's farm. There were other women visited there besides myself. Mrs. Noah Mendell, Mrs. Collins, Mrs. Samuel Adams, and Mrs. Westbay visited there, and a great many others that I don't remember. Mrs. Anchony and I have visited Mr. Seaton's together.

Ques. 4. When did you first relate this conversation between the brothers. When did you first speak of it afterward, and to whom?

Ans. The same evening I met an old lady, Mrs. M'Cauley, and told it to her. She is dead. She was the mother of Mrs. Westbay.

Ques. 5. When did you first mention it to Harriet?

Ans. In Mr. Berry's lifetime, her first husband, when they came to visit me. This was a year before Mr. Anchony died, in 1845. It was at Bridgewater.

Ques. 6. State who were all present at the conversation between Thomas Seaton and his brothers James and John, to which you have referred?

Ans. James Seaton and his wife, Mrs. M'Dowell, Harriet, John Seaton and wife, Elizabeth M'Dowell and a colored man, named Yellow Tom, was in the room; Thomas Jamison, Betsey M'Dowell, a cousin of Elizabeth, and myself. That was all, to the best of my recollection. My sister, Mrs. Hartzel, was there, but she got sick and went out and set on the porch; she went out while they were gathering up the men as Thomas Seaton had requested.

Ques. 7. How long were they gathering them up, and how many of the harvest hands came into the room?

Ans. None of the harvest hands were sent for at this time, not to my recollection. I mean at the time the conversation occurred. Those that he called to his bedside were all in the room when he called them to his bedside. Those that were not sitting were standing.

Ques. 8. Did Jack and Barclay stop at your house when they went to the funeral?

Ans. I am not able to say where they stopped before the funeral; after the funeral they stopped at our house and had their suppers, and that is all I know about them.

Ques. 9. Did you mention any of this conversation to them?

Ans. No, sir; I did not converse with them on any subject, but my husband and they had. I did not wait on the table myself at supper.

Ques. 10. How did you come to mention this conversation to Harriet in 1845, at Bridgewater?

Ans. Harriet and I was present when Mr. Berry and Mr. Anchony were talking about the circumstance; that is the way I happened to speak of it.

Ques. 11. Was not Mr. Anchony deranged at that time (in 1845), and had he not been so for a number of years?

Ans. He was not deranged at that time; I think in 1829, for one year, he was not right in his mind occasionally; he was as well as ever he was after that.

Ques. 12. When did you leave Ligonier Valley ?

Ans. In the fall of 1831, and I have not lived there since.

Ques. 13. How many of the persons described by you as being in the room at the time of the conversation between Thomas Seaton and his brothers are still living, and who are they ?

Ans. I think James Seaton's widow is living, Mrs. Mary M'Dowell, formerly Mary Dewer, Harriet and myself are living so far as I know, and believe all the others are dead. I have not been in that neighborhood for twenty-two years, except to pass through it about two years ago. The disease of which Thomas Seaton died, he told me was caused by his lame leg ; he told me frequently that it would kill him.

Ques. 14. You have stated that your husband, Henry Anchony, was frequently at the house of Thomas Seaton, during his last illness ; I wish you to state whether he was not a magistrate, and very much in the habit of drawing wills for the people in that neighborhood, and also whether he was not a very intimate and confidential friend of Thomas Seaton ?

Ans. He was not a magistrate at that time ; he was not in the habit of drawing wills to my recollection ; I knew nothing of that kind of business ; he was an intimate friend of Thomas Seaton, they were like brothers.

Ques. 15. Were you at the house of Thomas Seaton at anytime after the conversation and before his death ?

Ans. I was not there at his house until after his death ; he died on the next morning after the conversation, on Wednesday morning.

(Excepted to as irrelevant and incompetent.)

Direct Examination resumed.

Ques. 1. Do you know where Harriet was living after her father's death, and when she was first married ?

Ans. The first that I knew of her after his death she was going to school at Greensburg. We left Ligonier in the fall of the year after Mr. Seaton died and moved to Wheeling, remained there a year and then moved to Bridgewater ; went back to Wheeling again in 1843, remained there about fourteen months, when we returned to Bridgewater, where I have lived ever since.

Cross-Examination resumed.

Ques. Do you know how many illegitimate children Thomas Seaton had ?

Ans. I never knew of any but this one Harriet; he never told me of any other.

Direct Examination resumed.

Ques. State whether you ever knew any child, excepting Harriet, to be an inmate of Thomas Seaton's house, and whether he ever spoke of any other child, but Harriet, as his own and which he recognized as his heir?

Ans. No, sir; I never did.

MARGARET E. ^{her} ~~X~~ ANCHONY.
mark.

Sworn and subscribed before me.

J. E. BRADY, *Com'r.*

ALEXANDER M'DOWELL, (called by Complainants, and sworn.)

I am the husband of Mary M'Dowell that has been examined here as a witness. We were married the 22d February, 1831, at my brother Henry's, on my father's farm, in Ligonier township. I had been driving team, I believe, before that time. I am fifty-three years of age. I have no children. I resided in Ligonier and the vicinity until 1840; since that time I have been residing at Lawrenceville, in this county. I knew him since I was a boy; ever since I can recollect anything; I was born in that neighborhood.

Ques. 1. State whether at the time you married your present wife she had a child, and its name and age.

Ans. She had a child, and its name was Harriet N. Seaton. I could not say exactly what the age of the child was at the time of the marriage, but I suppose she was nearly nine years. My wife was living with Thomas Seaton at the time we were married, and had lived there for some years before. He was an unmarried man. Harriet was living at the house of Thomas Seaton at the time we were married; she had been living there from the time she was one or two years old up to that time. She was about two years old, I suppose, when I first knew her to be there. I had worked for Mr. Seaton in 1829 and 1830; then I was away awhile. I removed there about the last of April or first of May, 1831, and remained there until he died. During the years I worked there Harriet and her mother were inmates of Thomas Seaton's house. I was not present when Thomas died; I was not present at the conversation between Thomas Seaton and his brothers, which has been testified to here as occurring a short time previous to his death.

Ques. 2. How did Thomas Seaton speak of Harriet—that is, did he speak of her as his child or other relative?

Ans. He always spoke of her as his only daughter and his only heir. Two or three times he said to me that Harriet should be the sole heir to his estate, after his debts were paid. To the best of my knowledge, he first told me in May, previous to his death, and again he spoke of it between that and his death; once shortly before he went to Greensburg.

Ques. 2. What did he say to you on the occasion last referred to, shortly before he went to Greensburg, in regard to the disposition he intended to make of his property?

Ans. I think probably the evening before he went to Greensburg he said that he was involved in debt to his brother James, and that he was going up to Greensburg for to collect some money, or to get some money from the turnpike company, and he would settle off that claim, and then that he would get John T. Barclay and Matthew Jack to draw his will, that they knew all the circumstances of the bail money that he was in for his brother James, and that he would have it fixed in his will that James' farm should fall to Harriet, his daughter, in connection with his own estate; for that he had paid for his brother James more than four times the worth of the property, and that his heirs should never own a foot of it. He was speaking of James alone. I know that he went to Greensburg the next day after this conversation, and a day or two afterward returned home sick. In any conversation which I had with him in regard to the disposition of his property, he never expressed any other intention than to give it to Harriet. His declarations were always uniform in that way. He spoke of Harriet openly, before every person, as his daughter, and recognized her as his only child.

(Mr. Williams excepts to the evidence as irrelevant and incompetent.)

ALEX. M'DOWELL.

Sworn and subscribed before me.

J. E. BRADY, *Com'r.*

Adjourned to meet on notice.

I certify that the foregoing depositions were taken by me, at the times and places above stated, that I reduced the evidence of the several witnesses to writing in their presence, and that they signed their respective depositions in my presence.

J. E. BRADY, *Com'r.*

July 31st, 1857.

JOHN BRANDT, (called by Complainants, and sworn.)

I am about seventy-two years of age, and reside in Westmoreland county. I resided at the lower end of the town of Ligonier in July, 1831. I was acquainted with John, James and Thomas Seaton. They were brothers. Thomas Seaton lived about an eighth of a mile from me at the time of his death, in sight of my house. James Seaton was married, I think, to Polly Dewer. Thomas Seaton was not a married man. Polly Dewer kept house for Thomas Seaton. She was a daughter of Hugh Dewer. I think James Seaton's wife was her aunt. Polly Dewer was married to a man of the name of Alexander M'Dowell, subsequently. She had a daughter to Thomas Seaton before she was married to M'Dowell, called Harriet Seaton. She lived with Thomas Seaton after the child was born, and kept house for him. Harriet also lived there. The mother and Harriet were both living at Thomas Seaton's at the time of his death. It is about twenty-six or twenty-seven years, in July last, since Thomas Seaton died. I can't state the time exactly. I was at Thomas Seaton's house back and forward pretty often during his last sickness. He was not sick very long—four or five days, to the best of my knowledge. He might have laid longer. I went up to see Thomas Seaton, to see how he was getting. As I went in the room they had gathered in, Thomas Seaton called James Seaton, and John Seaton, and Harriet. He had Harriet by one hand and James Seaton by the other, and told James, this is my child, and all the heir that he had, and after his debts were paid that she should have all that was left. James said he would see to it and attend to it. John Seaton was in the room I think, if I am not mistaken. I did not hear John say anything or do anything in relation to what Thomas said. This was the day before his death or the day after. It was the day before he died or the day before that—that is the way I want to speak. At the time this conversation occurred, Mrs. Anchony, I think, and Mrs. M'Dowell were there. There were some more, but I can't tell who they were. John T. Barclay was here at the funeral of Thomas Seaton. Mr. Barclay, John Seaton, James Seaton and Samuel Keltz, and some more, came to my house after the funeral. They came down there

and asked me for a room, and gave them an inkstand and a side-room, and they drew some kind of writing, but I can't tell what it was. This was the day of the funeral. Harriet, from her appearance, might have been eight or nine years of age. Maybe not so old, maybe older. Thomas Seaton, at the time of his death, owned a good lot of property. I think he owned a couple of houses and lots in Ligonier, and some farms. At the time that the paper that I spoke of was drawn up at my house, I do not mind whether James and John Seaton and Mr. Barclay drank any liquor before the paper was drawn, or whether they drank any afterward. There was no person intoxicated. James and John Seaton are both dead.

(Mr. Foster, as counsel for respondents, excepts to the whole of the foregoing testimony as incompetent and irrelevant, and proceeds to cross-examine the witness.)

Cross-Examination.

Mrs. M'Dowell was not a daughter of my present wife. I am married to the widow of Hugh Dewer, who was his second wife. Mrs. M'Dowell is a daughter of his first wife. I can't tell where Mrs. M'Dowell was living when Harriet was born. I can't tell how old Harriet was when Mrs. M'Dowell came to keep house for Thomas Seaton. She kept house for him a good while, and I can't tell how old Harriet was when she came there. I do not know that she ever kept house for Thomas before Harriet was born. I had been in to see Thomas Seaton pretty often before I heard this conversation. I helped to move him from one room to another. Thomas Seaton was sickly for a long time before he died. He had brashes at times. Sometimes he was healthy and sometimes he was not. I can't recollect whether Mrs. Hartzel was present at the time of the conversation I have spoken of or not. Mrs. James Seaton was about the house, but I can't tell whether she was in the room at the time or not. John Seaton was in the room, some place about the bed I think. I do not know that John Seaton was not at the house of Thomas Seaton at the time till the day of the funeral, and that he was busy harvesting.

On the day of the funeral James and John Seaton, and Mr. Barclay came to my house the day of the funeral. I don't

know whether they came there together, but they were all three there. James Seaton and Mr. Barclay came together, I am pretty confident of that. They came from Thomas Seaton's house, where he had lived. I did not know what they were doing at my house. They were doing some kind of writing. After they had got through they did not tell me what they had been doing. I did not ask them and they did not tell me. I could not tell whether John Seaton came with Barclay and James, but he was there. Henry Anchony was not there. I can't say whether it was the day before Thomas Seaton died, or the day before that, that I heard the conversation of which I have before spoken. Mr. Barclay was afterward appointed Harriet's guardian, as I understood. I never told Mr. Barclay anything about this conversation. I never told any other person that I mind, of the conversation. I was living, about the time they were dividing the property of Thomas Seaton, between James, John and Harriet. I was wagoning at the time, and can't tell whether I was here then or not. I was at the house on the day of the sale of the personal property. I think Barclay was at the sale, but I won't be certain about it. Mrs. M'Dowell was there. I rather think Henry Anchony was there, I won't say for sure. I think Mrs. Anchony was there the day of the sale. There were a great many people there.

I did not tell Mr. Barclay on the day of the sale anything about what I had heard Thomas Seaton say in relation to the disposition of his property, nor did I hear Mrs. M'Dowell, Mr. Anchony nor Mrs. Anchony tell him anything about it. I was not on the farm on the day that the sheriff and jury were appraising it. Mrs. M'Dowell and Harriet were about my house occasionally after Thomas Seaton died, not very often. Mrs. M'Dowell and I never talked about this conversation afterward. I thought it was all settled. I don't know that I ever told anybody about this conversation. I might have told to some persons when they spoke to me about it, but I do not remember whether I did or not. I never bothered my head about such things. I could not tell who was the first person spoke to me about it. Mr. Bedilion and Mr. Laird came to me together—Mr. Laird asked me if I knew anything about the writings that was drawn at my house. He first asked me

if I kept tavern at the bridge near Ligonier. I told him I didn't, that I gave them pen and ink and they went into the room. I did not at that time tell Mr. Bedilion and Mr. Laird anything about what I had heard Thomas Seaton say the day before he died. I never told any body about it, as I know of, that I can mind. I heard there was a suit pending in Pittsburgh, about two years ago, between Mr. Bedilion and wife, against Thomas Seaton, about this property. Thomas Seaton told me. I did not know that Mrs. M'Dowell had been sworn a few weeks ago. I had heard that Mrs. Anchony had been examined. Mr. Bedilion was to see me on Saturday last. He did not tell me what Mrs. M'Dowell or Mrs. Anchony had sworn.

I came here because Mr. Riffle subponæd me. I do not recollect the day of the week that Thomas Seaton died. I could not tell how long Mrs. M'Dowell lived in this neighborhood after Thomas Seaton died — maybe five or six years, maybe more, I can't tell exactly — it is in the neighborhood of that. I think Mrs. M'Dowell was living in this neighborhood when Harriet was first married.

(Mr. Laird objected to the evidence in the last sentence as not being a cross-examination.)

Direct Examination resumed.

At the time Mr. Bedilion and Mr. Laird called at my house they were not there more than eight or ten minutes. I was not well and did not talk much. I did not know Mr. Laird, although I had seen him. I did not know Mr. Bedilion at the time. Mr. Laird was going from Ligonier to try a suit at Saltstown.

Ques. Mr. Brandt, did Mr. Laird indicate to you in that conversation how you should testify in any way in regard to this matter?

Ans. No, he did not. All Mr. Laird asked me, whether I kept tavern at the bridge, opposite Thomas Seaton's, at the time of his death, and whether I knew anything about the writings that were executed there. Mr. Bedilion did not enter into any conversation with me about the matter. I did not know his name until Mr. Laird introduced him to me.

JOHN BRANDT.

MARY HARTZEL, (called by Complainants, and sworn.)

I was acquainted with Thomas, John and James Seaton. I knew Harriet Seaton when she was a small girl. I saw her once since she married. Harriet was living at Thomas Seaton's at the time of his death. I think Mrs. M'Dowel lived there at the time. I can't tell how long Harriet had lived at Thomas Seaton's before his death. I expect it was several years. I can't remember. I knew that Thomas used to call Harriet his petty. Mrs. James Seaton is an aunt of Harriet's mother, Mrs. M'Dowell. I was not present when Thomas Seaton died. I was not present at any time when Thomas Seaton called his brothers and Harriet to his bedside. I was at the house but once while he was sick. I do not know where Harriet was born. I did not know Mrs. M'Dowell until after she came to live with Thomas Seaton. Harriet was a smart lump of a child the first time I saw her. Mrs. M'Dowell was a daughter of Hugh Dewer. Mrs. James Seaton was a sister of Mr. Hugh Dewer. I think that Mr. John Seaton lived on the old place when Thomas died. About a half mile from Thomas' I think.

Cross-Examination.

I was at Thomas Seaton's the day before he died. I don't think I was there more than fifteen minutes. There were a good many persons back and forward. I don't recollect any but Mrs. James Seaton and Mrs. John Seaton. John Seaton might have been there, but I cannot remember of him being there. Henry Anchony was not there when I was there, nor Mr. Brandt, nor Mrs. Anchony, that I remember. I can't exactly tell what time I was there, but I think it was about the middle of the day. I don't remember of James Seaton being there.

Direct resumed.

James Seaton lived where Mr. Myers lives now. It may be a half mile or more from where Thomas Seaton lived. Polly Dewer was married to M'Dowell while she lived at Thomas Seaton's. I think she was not married at Mr. Seaton's house, but it was after she came to live there. After her marriage to M'Dowell, both she and her husband lived at Thomas Seaton's till his death.

MARY HARTZEL.

ELIZA BRANDT, (called by Complainants, and sworn.)

I knew James, John and Thomas Seaton very well, ever since I have lived in Ligonier Valley. They are all dead. James Seaton was married to Polly Dewer, a sister of Hugh Dewer. Hugh Dewer had a daughter called Polly, who married Alexander M'Dowell. Polly Dewer had a daughter before she was married to M'Dowell, called Harriet Seaton, who is now married to Mr. Bedilion. Polly Dewer was residing, at the time Harriet was born, at her uncle James Seaton's, out at the farm where Myers now lives. That was about one mile and a quarter from where Thomas Seaton lived. She lived at her uncle James Seaton's for some time before the birth of her child. It was about a year, I think, some think more than a year after Harriet was born, that she and her mother went to live at Thomas Seaton's. They continued to live at Thomas Seaton's till his death. Several years before his death, I saw Thomas Seaton take the child Harriet, and said, Harriet is my child, and all I possess is her's. As far as I know, he treated Harriet with great affection and kindness. He said at that time that he would give her a good education. I heard him speak this way of Harriet frequently—time and again. I can't tell the age of Harriet when Thomas Seaton died. I think she was about six or eight years old, from her appearance. Thomas Seaton treated Polly Dewer very kindly and as an equal when she was at his house. Polly Dewer was the mistress of Thomas Seaton's house when she was there. She had hired girls under her. She entertained the company that visited the house. There were very respectable people that visited him from Ligonier, and there were gentlemen that came from Greensburg to visit him. She sat at the head of his table. Mrs. James Seaton and John Seaton visited there, not very often, but they were very friendly. Mrs. James Seaton visited oftener than Mrs. John Seaton. Mrs. John Seaton and they were not on such good terms. I visited Thomas Seaton's frequently. Polly Dewer presided at the table when I was there, and unless the duties of the house took her away. I was at Thomas Seaton's one evening during the time he was sick. John Seaton lived on the old place when Thomas died, about a mile from Thomas. He was at the fu-

neral. I recollect Thomas Seaton being at Greensburg shortly before he died. He took sick, I think, on his way home from Greensburg. He had been sick for a considerable length of time, and took worse coming from Greensburg. He had a lingering disease for some time, but did not lie very long. He was not long confined. John Seaton, James Seaton, John T. Barclay and Matthew Jack were at our house on the day of the funeral. John and James Seaton returned to Thomas Seaton's house before I left it. They were sober. They said they had made their arrangements, and appeared satisfied. John and Thomas Seaton were sober and respectable men.

Cross-Examination.

It was maybe a week, or not so long before he died, that I was at Thomas Seaton's. I did not speak to him that evening. Thomas Seaton was a smart business man and did an extensive business. He was an intelligent man. I am the wife of John Brandt.

Direct resumed.

James Seaton had a daughter that is married to John T. M'Gowan. There are none other living. James Seaton's widow is living. John Seaton is dead and left two children, Robert and Thomas, who are both living. John Seaton's wife survived him and died within a year. John Seaton died three years ago last April. James and John Seaton were the only brothers that survived Thomas. There were no sisters.

ELIZA ^{her}
× BRANDT.
_{mark}

JOHN BRANDT, (called by Respondent for further Cross-Examination.)

I was at Thomas Seaton's frequently during his last illness. He was sitting in an arm chair for a couple of days; I then helped to move him to another room in the chair. At the time I heard him make the declaration to which I have testified, in relation to the disposition of his property, he was in his bed braced up with pillows. He talked sensibly—he was in his right mind. He did not talk much. He had hold of the hands of James and Harriet's hand with his hands. Thomas Seaton was an active shrewd man, that did a great deal of business when he

was able to go about. He was a smart man and a tolerable good writer.

JOHN BRANDT.

I certify that the foregoing depositions were taken by me, at the time and place mentioned in the caption, that I reduced the evidence of the several witnesses to writing, in their presence, and that they signed their respective depositions in my presence.

September 28, 1857.

J. E. BRADY, *Com'r.*

Depositions taken at the office of C. Shaler & Co. in the city of Pittsburgh, on Friday, the seventh day of May, A. D. 1858, Th. Umbstaetter, Esq. appearing for complainants and Thomas Williams, Esq. for respondents.

ALEXANDER M'DOWELL, (recalled by Complainants.)

I have been examined in this case before.

Ques. What length of time intervened from the time that Thomas Seaton returned from Greensburg till his death?

Ans. I think it was about a week.

Ques. What was his condition during that week, and was he or was he not able to leave his house?

Ans. His condition, from the time he came home until his death, was very bad. I think he never was out of his room from the time he went into it, till he was carried out.

Ques. How far did James Seaton live from Thomas at that time?

Ans. I suppose in the neighborhood of a mile and a half. I don't know exactly the distance. It was something over a mile.

Ques. Were you about the house during the week preceding Thomas Seaton's death?

Ans. Yes, sir; I was there mornings and evenings, and at the meal times. The rest of the time I was in the harvest field.

Ques. State whether, after his return from Greensburg, his condition at any time was such as to allow him to go to James Seaton's house.

Ans. No, sir; I think not. If he had gone to James Seaton's house, I could have heard of it. He was not on his own farm from the time he came home.

Cross-Examination.

Ques. You say you were only at the house at meal times, did you see him yourself on all such occasions?

Ans. I saw him in the morning at breakfast time, at dinner time, at supper, and from that on till bed-time.

Ques. Where was the harvest field in which you were working? How far from the house, in what direction, and what was the crop therein?

Ans. The field in which we were working at the time he died was just across the road from the house. It laid rather east from the house, between the house and the township road. The crop was wheat. I suppose there were from sixteen to twenty acres in the field. I would not say positively.

Ques. State whether there was not an orchard between the field to which you refer and the house?

Ans. Not at that time. There were some few apple trees in the field at that time, but not fenced off. It was all in wheat.

Ques. How many apple trees were there at that time?

Ans. There were some half dozen of big trees, and some young trees that were set out. I cannot say what number.

Ques. State whether the orchard was not, at that time, inclosed on the house side, and on the side opposite to that, by a board fence separating it from the field to which you have referred.

Ans. It was fenced by a board fence from the corner of the horse stable to the corner next the house, but it was not fenced off separately at that time.

Ques. State whether the road leading to James Seaton's house did not lead down to the creek southwardly and then eastwardly up the creek, so that it could not be seen from the field of which you spoke?

Ans. It run partly southwardly to the creek, it run up the creek eastwardly to the township road. The greater part of the road was visible from the field, a part of it in the bottom was not. Any person going either up or down to and from

James Seaton's could see the field from the township road, could see the whole field. The township road run through the farm, and the field of which I have spoken adjoined the road.

Ques. State how many hands were employed, and how long you were working in that field?

Ans. Some days we had five or six to eight, including myself. I do not remember how many days we were working in that field. It was the last we cut. We were not a week at it. We came into that field about two days before he died. We were not very long in it. We had before that been working in a field above it; north of it. I could not state the size of the last field spoken of. It contained about from eight to ten acres, as near as I can remember.

Direct Examination resumed.

Ques. Was Thomas Seaton able, during the week preceding his death, to take his meals with the other inmates of the house at the table, or not?

Ans. I never saw him at the table during that week. I should think he was not able to take his meals at the table, as he always sat with the family when he was well. I never saw him out of his room during that week. He was confined to his bed.

ALEX. M'DOWELL.

Sworn and subscribed before me.

J. E. BRADY, *Com'r.*

I certify that the foregoing deposition was taken before me at the time and place mentioned in the caption, that I reduced the evidence of the witness to writing in his presence, and that he signed his deposition in my presence.

May 7th, 1858.

J. E. BRADY, *Com'r.*

Deposition of witness taken at the house of Mary M'Dowell, in the borough of Lawrenceville, Allegheny county, Th. Umbstaetter, Esq. appearing for complainants, and I. Grier Sproul, Esq. for respondents.

MARY M'DOWELL, (recalled by Complainants.)

I was examined in this case before.

Ques. State, if you please, whether Thomas Seaton after his return from Greensburg to his own house at Ligonier, as testified by you on a former occasion, ever left his house again.

Ans. He never did. I can't tell how long it was after his return till he died — it was three or four days. It was not a week.

I certify that the foregoing deposition was taken by me in the month of October, or November, A. D. 1858, and that I reduced the evidence of the witness to writing at the time she gave it, and that she then signed it in my presence, the counsel for the parties being present.

April 26, 1859.

J. E. BRADY, *Com'r.*

Defendant demands a bill

Monday - 23rd May 1879

Went
to the

Hill on Tuesday - 150 -
1 Vernon Thym & Thym 295
2. Vernon. Oldham & Litchfield 505.
1 Vasey. 178. Deed & Hamlyn
9 Barn. 309. Park & Eric
1 Wates 163. Hoge & Hoge